IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21992 of 2004

Between:

Divi Koteswara Rao, S/o Kotaiah, 56 years, R/o D.No. 10-2-69/B, Kandukuru, Prakasam District.

..... PETITIONER

AND

1. The Revenue Divisional Officer, Kandukur, Prakasam District.
2. The Mandal Revenue Officer, Kandukuru Mandal, Prakasam District.
3. The Principal Secretary to Government, Food & Civil Supplies Department, Govt. of A.P., Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of mandamus declaring the action of the Government in issuing the orders in G.O.Ms.NO.53 introducing a disqualification to the persons holding the fair price shop dealerships while holding any public office as without power or authority and also to declare the consequential orders of the first respondent in canceling the dealership of a fair price shop of the petitioner by the impugned proceedings issued by the first respondent in his Rc.F/2867/04, dated 22.11.2004 served upon the petitioner on 25.11.2004 as illegal, void, arbitrary, discriminatory and ultravirus, and consequentially to dire the respondents to refrain from in any

way interfering with the right of the petitioner to continue to enjoy the benefits of fair price shop dealership and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.SUDHIR KUMAR

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner was appointed as a fair price shop dealer in the year 1979. Through proceedings dated 22.11.2004, the first respondent cancelled the authorization on the ground that the petitioner was elected as a Councilor of Kandukuru municipality. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

It is not in dispute that the petitioner was appointed as a fair price shop dealer and that he was elected as a councilor for Kandukuru Municipality. In G.O.Ms.No. 53 Consumer Affairs, Food and C.S.(C.S.1) Department dated 06.10.2003, it was clearly stipulated that any person, who holds any public office like Sarpanch of Gram Panchayat, President of Mandal Parishad, Councilor of Municipality etc., shall be ineligible to be appointed as a fair price shop dealer. The disqualification applies even to those persons who came to be elected while continuing as fair price shop dealers.

A reading of the impugned order discloses that the petitioner was not given any notice before his authorization was cancelled. Howsoever definite a ground for removal may be, the affected person has to be put on notice. In such an event, he may offer his own explanation or take such decision as may be beneficial for him. It is a settled principle of law that the fact that a party may not have any plausible explanation to offer, is no ground to deny the right of being heard.

Hence, the impugned order is set aside on the sole ground that it is violative of principles of natural justice. However, it is left open to the first respondent to proceed against the petitioner after issuing notice. The writ petition is allowed.

There shall be no order as to costs.

30.11.2004

Note:

Issue CC in threedays.

(BO)

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To

1. The Revenue Divisional Officer, Kandukur, Prakasam District.
2. The Mandal Revenue Officer, Kandukuru Mandal, Prakasam District.
3. The Principal Secretary to Government, Food & Civil Supplies Department, Govt. of A.P., Secretariat Buildings, Hyderabad.
4. Two CCs. to the G.P.for Civil Supplies, High Court of A.P., Hyderabad (OUT)
5. Two CD copies.